

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

\* \* \*

JOSEPH VALDEZ, individually and  
on behalf of all others similarly situated, )

2:09-CV-01797-PMP-RJJ

## Plaintiffs,

VS.

COX COMMUNICATIONS LAS  
VEGAS, INC., VIDEO INTERNET  
PHONE INSTALLS, INC., QUALITY  
COMMUNICATIONS, INC., SIERRA  
COMMUNICATIONS, CO.

## ORDER

## Defendants

Before the Court for consideration is Defendants' Joint Motion and Petition for Certification of An Interlocutory Appeal, to Amend Interlocutory Order to Include Statement Required by 28 U.S.C. § 1292(b), and to Stay Distribution of Notice of Pendency Pending Outcome of the Appeal (Doc. #114), filed on July 9, 2010.

By this motion Defendants seek interlocutory review before the Ninth Circuit Court of Appeals of this Court's Order (Doc. #112) for a determination whether, when the lone named Plaintiff (Valdez) is disqualified from acting as the Class Representative in a collective action lawsuit under the Fair Labor Standards Act, and there is no other named Plaintiff representative to act on behalf of the class: (1) distribution of notice of pendency of the action to putative class members is

1 precluded, and (2) whether the collective action should be dismissed, leaving the  
2 lone named Plaintiff (Valdez) to proceed individually on his claims.

3 Finding that the issues proposed for interlocutory review raise serious  
4 questions which are potentially case dispositive, the Court concludes that  
5 Defendants' joint motion should be granted.

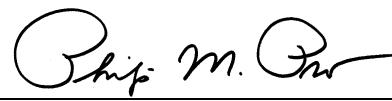
6 **IT IS THEREFORE ORDERED** that Defendants' Joint Motion and  
7 Petition for Certification of An Interlocutory Appeal, to Amend Interlocutory Order  
8 to Include Statement Required by 28 U.S.C. § 1292(b), and to Stay Distribution of  
9 Notice of Pendency Pending Outcome of the Appeal (Doc. #114) is **GRANTED**.

10 **IT IS FURTHER ORDERED** that distribution of the *NOTICE OF*  
11 *PENDENCY OF COLLECTIVE ACTION LAWSUIT UNDER THE FAIR LABOR*  
12 *STANDARDS ACT* is hereby stayed pending resolution of the Interlocutory Appeal  
13 before the Ninth Circuit Court of Appeals.

14 **IT IS FURTHER ORDERED** that Defendants shall initiate the  
15 Interlocutory Appeal permitted by this Order not later than **October 1, 2010**.

16 **IT IS FURTHER ORDERED** that by granting Defendant's Motion for  
17 Interlocutory Appeal, the Court is not staying the 90 day re-opening of discovery on  
18 the issue of Defendant Cox's status as a joint employer, which is the subject of a  
19 separate Order entered this date.

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21 DATED: September 13, 2010.

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24 PHILIP M. PRO  
United States District Judge  
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